

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 629 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

JAYLAKSHMI K BHATT THRO' PAH KAPILRAY K BHATT DECEASED

Versus

CHAMPAKLAL C AMIN

Appearance:

MR JITENDRA M PATEL for Petitioners
MR KF DALAL for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 15/09/2000

ORAL JUDGEMENT

This is landlord revision under sec.29(2) of the Bombay Rent Act against the judgment and decree of the appellate Court dated November 14, 1986 dismissing the appeal of the landlord revisionist and confirming the judgment and decree of the trial Court dismissing the

suit of the revisionist for recovery of possession from the tenant respondent.

The trial Court, after considering the respective contentions and evidences of the parties, found that the landlord revisionist was not entitled to decree for possession. Accordingly, the suit was dismissed.

The landlord feeling aggrieved against the judgment and decree of the trial Court preferred an appeal which was also dismissed through the order under revision. Hence, this revision.

It is a case of concurrent findings of the two courts below recorded against the landlord revisionist. Hence, the question of interference hardly arises in this revision. However, it is well settled law that subsequent events arising during pendency of the revision can be taken notice by the revisional Court as well.

The respondent Champaklal Chimanlal Amin is present in person. He states that he may be permitted to tender an affidavit which was sworn and verified before Shri Rajendra S. Vyas, advocate and notary at Vadodara on August 18, 2000. He further states that he has written a registered letter to his advocate Shri KF Dalal that since he is no more interested in this litigation and in retaining the possession of the disputed accommodation he need not come. As such, his affidavit tendered in person has been accepted, which shall form part of this record.

In this affidavit, the respondent has deposed that inspite of the fact that the judgments of the two courts below are in his favour but, now he is not interested in the suit house as well as in the present revision. He has further deposed that he does not need the suit accommodation any more for his residential purpose. He has further deposed that he has no objection if the judgment and decree is passed in favour of the revisionist directing him to hand over possession of the disputed house to the revisionist and he has further no objection if the judgments and decrees of the two courts are set-aside.

Likewise, he has deposed that he has no objection if the order is passed in this revision for handing over possession of the suit house in favour of the revisionist. Thus, in view of the subsequent events narrated by the respondent tenant, as discussed above, the revision has to be allowed and is allowed. The

judgments and decrees of the two courts below are set-aside. The suit of the revisionist landlord against the respondent for recovery of possession of the suit premises from the respondent is decreed with no order as to costs. The respondent is directed to hand over the vacant possession of the suit accommodation to the landlord revisionist within a period of three months from today.

15-9-2000. (D.C. Srivastava, J.)

/sakkaf